Remarks

Claims 1, 3, 4, 7, 9, 10, 13 and 14 have been amended.

The Examiner has rejected applicant's claims 1-14 under 35 U.S.C. §103(a) as being unpatentable over the Sato, et al. (US 6,108,638) patent and the Mochizuki (US 6,463,539) patent in view of the Francisco, et al. (US 6,078,899) patent. Applicant has amended applicant's independent claims 1, 4, 7, 10, 13 and 14, as well as dependent claims 3 and 9, and with respect to such independent claims, as amended, and their respective dependent claims, the Examiner's rejection is respectfully traversed.

Applicant's independent claims have been amended to better define applicant's invention. More particularly, applicant's independent apparatus claim 1 recites first calculation means for calculating a software charge for performing a predetermined process by using application software, which is used to create and/or edit data by a user operation, second calculation means for calculating a device charge for using an output device, which receives and outputs via a network the data created and/or edited by the application software, and third calculation means for calculating a total charge of a data output process based on the respective charges calculated by the first and second calculation means. Method claim 7 and storage medium claim 13 have been similarly amended.

Applicant's independent apparatus claim 4, in turn, recites first calculation means for calculating a device charge for using a device for inputting or outputting data, wherein the device is used by a user via a network, second calculation means for calculating a software charge for using application software used to use the device via the network, and third calculation means for calculating a data processing charge of the device using the application

software based on the respective charges calculated by the first and second calculation means. Method claim 10 and storage medium claim 14 have been similarly amended.

Support for "software charge" and accompanying language in the amended claims is set forth in the specification on page 8, line 25 through page 9, line 7, and on page 12, line 3 through page 14, line 13. Support for "device charge" and using the device "via a network" is set forth in the specification on page 8, lines 10 - 24 and on page 14, line 14 through page 16, line 2.

Dependent claims 3 and 9 have been amended to change "external device" to "output device," where proper antecedent support for "output device" is set forth in claims 1 and 7, respectively.

The constructions of the independent claims set forth above are neither taught nor suggested by the cited Sato, et al., Mochizuki and Francisco, et al. patents. The Sato, et al. patent teaches a system in which barcode data on selected products to be purchased is read by an input unit and the price of the product is calculated. The Mochizuki patent discloses a system in which utilization information on the use of software information on a disc is recorded on an IC card and a rental fee to be charged to a user for use of the software information is calculated by reading out the utilization information. The Francisco, et al. patent discloses a sales tax reporting system using a register that processes consumer transactions, calculates the sales tax due therefor, and periodically forwards the accumulated transactions amount and accumulated sales tax amount to a remote location, such as a state governmental taxing authority.

The Examiner has argued that Sato, et al. discloses applicant's first charge calculation pertaining to using application software. The Examiner further has argued that Mochizuki

discloses applicant's second charge calculation pertaining to using an output device. The Examiner also has argued that Francisco's teaching of a register that sums sales tax collected and base transaction amounts corresponds to first and second calculations, and then concluded that the combination of Sato, et al., Mochizuki and Francisco, et al. would result in applicant's claimed invention.

Applicant disagrees with the Examiner's position for several reasons. First, applicant submits that the references, either alone or in combination, fail to disclose or suggest applicant's claimed feature of "calculating a software charge for performing a predetermined process by using application software" as recited in amended claims 1, 7 and 13. Clearly, Sato, et al.'s teaching of identifying an amount to be charged for a product using barcode information is sufficiently different from the claimed invention's calculation of a software charge. In particular, the language of the claims has been amended to make it clear that the charge is not for the purchase of a product, but rather it is a charge for performing a predetermined process by using application software.

Second, applicant submits that the references fail to disclose or suggest applicant's claimed feature of "calculating a device charge for using an output device, which receives and outputs via a network the data created and/or edited by the application software," as recited in amended claims 1, 7 and 13. In the Mochizuki patent, the charge is based on utilization of the software information that is stored on the disk, not for actual usage of the disk or IC card.

Third, the references also do not disclose or suggest the latter feature recited in the second calculation element/step. In particular, the second calculation calculates a device charge for using the output device where the output device had received and outputted via a network the data created and/or edited by the application software, such application software

being used that resulted in the first calculation of the software charge, discussed above. The relationship between the activity that resulted in the first and second calculations, as recited in the claims, is neither disclosed nor suggested in the cited art. Rather, the cited art, when combined, would result at best in two charge calculations for unrelated activity. The first activity is the purchase of a product using barcode data, and the second activity is the utilization of a disc. These activities are completely unrelated to one another. On the other hand, the software charge and the usage charge of the claimed invention are based on activity that involves using the same application software, where the software charge is for performing a predetermined process by using the application software, and the device charge is for using the output device which receives and outputs the data created and/or edited by the application software.

Fourth, the references do not disclose or suggest the third calculation for calculating a total charge of a data output process based on the respective charges calculated by the first and second calculations, as recited in amended claims 1, 7 and 13. The Francisco, et al. patent, relied upon by the Examiner for allegedly disclosing this feature, pertains to tabulating consumer purchase transaction amounts and sales taxes for such purchases. However, the tabulated amount in this cited reference does not relate to applicant's claimed data "output process."

Fifth, applicant submits that it is improper to combine the teachings of Francisco, et al. with the teachings of Sato, et al. and the teachings of Mochizuki to reject applicant's claims. Francisco, et al. is directed to providing a specific type of register for the purpose of collecting and reporting sales tax for consumer purchasing transactions. Francisco, et al. seek to solve the problem of erroneous tax collection and tax reporting. Francisco, et al. is not at

all concerned with how product pricing is calculated. On the other hand, Sato, et al. relate to calculating the price of a product utilizing barcode data, and Mochizuki relates to calculating a rental fee based on the utilization of information on a disc. Neither Sato, et al. nor Mochizuki is concerned with collecting sales taxes or with the reporting of such taxes to a tax reporting authority.

The Examiner asserted that "It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the teachings of Sato and Mochizuki by including the limitations detailed above as taught by Francisco because this would prevent retailers or users from avoiding the payment of sales tax or fee." Applicant disagrees. If neither Sato, et al. nor Mochizuki is concerned with tax collection, then it would not have been obvious to modify either of these references using the teachings of a reference (i.e., Francisco, et al.) that solely is concerned with tax collection. There must be some reason for the combination other than the hindsight gleaned from the invention itself, but here there is none. Since there is no objective teaching in the cited art that would lead one to combine them in the manner proposed by the Examiner, the rejection of the claims in view of these references is improper.

In view of the foregoing, applicant's independent claims 1, 7 and 13, and their respective dependent claims, are patentably distinct and unobvious over the combination of Sato, et al., Mochizuki and Francisco, et al. Accordingly, it is requested that the rejection of such claims be withdrawn.

Applicant's independent claims 4, 10 and 14 recite, in one form or another, first calculation means for calculating a device charge for using a device for inputting or outputting data, wherein the device is used by a user via a network, second calculation means

for calculating a software charge for using application software used to use the device via the network, and third calculation means for calculating a data processing charge of the device using the application software based on the respective charges calculated by the first and second calculation means. Applicant submits that each of the previously discussed comments made with respect to claims 1, 7 and 13 is equally applicable to independent claims 4, 10 and 14. Thus, claims 4, 10, 14, and their respective dependent claims, are patentably distinct and unobvious over the combination of Sato, et al., Mochizuki and Francisco, et al. Accordingly, it is requested that the rejection of such claims be withdrawn.

In view of the above, it is submitted that applicant's claims, as amended, patentably distinguish over the cited art of record. Accordingly, reconsideration of the claims is respectfully requested.

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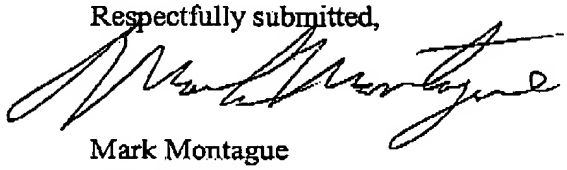
Respectfully submitted,



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